

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**
CHARLOTTESVILLE DIVISION

ALEXANDER STONE KRISTENSEN, a minor by
next friend, SUSAN LEIGH KRISTENSEN, and
KAIA VICTORIA KRISTENSEN, a minor by next
friend, SUSAN LEIGH KRISTENSEN

Plaintiffs,

v.

WILLIAM DAVID SPOTNITZ and DENISE
CONSTANCE SCHAIN

Defendants.

NO. 3:09-cv-00084

ORDER

JUDGE NORMAN K. MOON

This matter is before the Court upon consideration of the parties' pretrial motions to exclude. For the reasons stated in the accompanying Memorandum Opinion, I will DEFER RULING on Defendants' Motion to Exclude Evidence of Subsequent Remedial Measures (docket no. 61), unless and until Plaintiffs attempt to introduce such evidence. Defendants' Motion to Exclude Any Injuries or Symptoms of Other Persons or Animals (docket no. 148) is DENIED for the reasons noted at the September 29, 2011 hearing. Defendants' Motion to Exclude Evidence of Plaintiffs' Emotional Distress (docket no. 149) is GRANTED in part and DENIED in part, as I will allow Plaintiffs to introduce evidence of emotional distress, but only such evidence that can be directly connected to their alleged physical injuries. Defendants' Motion to Exclude Evidence that Defendants Are Doctors (docket no. 150) is DENIED. Defendants' Motion to Exclude Evidence of Damage to Furniture and Personal Property (docket no. 152) is GRANTED in part and DENIED in part, as I will allow Plaintiffs to introduce such evidence for the limited purpose of showing the nature and extent of alleged mold damage in the

home. Defendants' Motion in Limine to Exclude Evidence or Reference to "Toxic" Mold, Mycotoxins, or VOCs (docket no. 153) is DENIED, but I instruct the parties to refrain from referring to specific findings contained in the mold testing reports in their opening statements. Plaintiffs' Motion to Exclude or Limit the Testimony of Drs. Phillips and Cheung (docket no. 167) is GRANTED in part and DENIED in part, which effectively moots Plaintiffs' Motion for Leave to File a Motion in Limine After the Deadline (docket no. 180). Such Motion is DENIED as moot.

It is so ORDERED.

The Clerk of the Court is directed to send certified copies of this Order and accompanying Memorandum Opinion to all counsel of record.

Entered this 30th day of September, 2011.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE